

AGRICULTURAL CHEMICAL CLEANUP PROGRAM

Groundwater is a major source of the state's drinking water. Under the Wisconsin Groundwater Law, the Department of Agriculture, Trade and Consumer Protection (DATCP) has tested the state's groundwater for the presence of agricultural chemicals (pesticides and fertilizers).

The DATCP has often found groundwater contamination near pesticide handling sites and other sites where spilled pesticide and fertilizer products have not been cleaned up. Cleanup of these sites is necessary, but it can be costly.

To ease the financial burden of site cleanup, the Wisconsin Legislature created the Agricultural Chemical Cleanup Program (ACCP) and reimbursement fund for reimbursing costs associated with the cleanup of agricultural chemicals.

Persons or businesses responsible for cleaning up sites contaminated with agricultural chemicals, or persons who have cleaned up contaminated sites since January 1, 1989, may apply for cost reimbursement from the ACCP, as long as the costs submitted to the department are less than three years old.

PERSONS ELIGIBLE FOR REIMBURSEMENT

Any responsible person may apply to the

ACCP for reimbursement of costs associated with a cleanup. The responsible person may be:

- the person who owns or controls a spilled agricultural chemical
- the person or persons causing the spill
- the property owner where an agricultural chemical spill occurred

COSTS ELIGIBLE FOR REIMBURSEMENT

Only certain costs are eligible for reimbursement. All eligible costs must be considered reasonable and necessary to complete the cleanup. Some examples are costs associated with:

- laboratory analysis of soil and groundwater samples
- environmental consultant fees
- installation of monitoring wells
- soil borings
- costs to remove or treat contaminated soil or groundwater

COSTS INELIGIBLE FOR REIMBURSEMENT

Some cleanup costs are not eligible for reimbursement. These include but are not limited to:

- attorney fees
- costs covered by insurance

- decreased property values
- replacement of spilled agricultural chemicals
- loss of income
- liability claims

DISCHARGE SITE

A discharge site includes the area which is affected by contamination regardless of property boundaries. This would include all contiguous land owned, leased or controlled by a responsible person at the time of the discharge, and all other land affected by the discharge. If a discharge affects two or more adjoining properties, the deductible and reimbursement payout is based upon one discharge site.

WORKPLAN

The ACCP may not reimburse a responsible person for eligible costs exceeding \$7,500 unless the responsible person submits a written workplan and this workplan is approved by the department before the corrective action is taken. A pre-approved workplan is not required for reasonable and necessary corrective action taken on an emergency basis.

COST ESTIMATE

The ACCP may not reimburse a responsible person for eligible costs unless a cost estimate was approved by the

department before the scope of work was performed. All subcontractor costs equal to or greater than \$3,000 must be competitively bid and a copy of the bids should be submitted to the department.

CONTRACT SERVICES

To be eligible for reimbursement, all costs must be contracted according to the provisions of ATCP 35.16, Wis. Adm. Code. This section of the rule details the bidding procedures which must be followed in order for the costs to be eligible for reimbursement.

POTENTIAL REIMBURSEMENT AMOUNTS FOR CLEANUP COSTS

Persons licensed by the DATCP to sell or apply pesticides or manufacture fertilizers and large businesses must meet a \$7,500 deductible.

Farmers and other persons not required to be licensed by DATCP must meet a \$3,000 deductible. The ACCP has a 25 percent copayment of all approved costs between the deductible and the \$400,000 discharge site maximum.

Failure to Follow ATCP 35

The ACCP may reimburse at a rate of up to 75 percent of otherwise eligible costs if the requirements of ATCP 35 are not met.

Transportation Related Spills

Reimbursement of transportation spills varies depending upon ownership of the spilled chemical and the transportation vehicle. A spill is normally considered to have occurred at the site from which the product originated. However, there are instances when the spill is considered a new and separate discharge. Contact the ACCP Auditor at (608) 224-4522 to learn how your transportation spill will be handled.

APPLICATION FREQUENCY

A responsible person may not submit more than one application within a 12 month period for the same discharge site.

DISCHARGE REPORTING

State law requires prompt reporting of a discharge to the Department of Natural Resources when a spill occurs. DATCP also requires prompt reporting to maintain eligibility for the reimbursement of cleanup costs.



Wisconsin Dept. of Agriculture,
Trade & Consumer Protection
PO Box 8911
Madison WI 53708-8911
608-224-4500
<http://datcp.wi.gov>
ARMPub 35A.qxd (Rev. 1/12)

Cleaning Up Agricultural Chemicals

for your information...



General Information